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**Town of North Reading**  
*Massachusetts*

TOWN CLERK  
NORTH READING, MA

*Community Planning*

## **MINUTES**

**Tuesday, August 25, 2015**

Mr. Cristopher B. Hayden, Chairperson called the Tuesday, August 25, 2015 meeting of the Community Planning Commission to order at 7:55p.m. in Room 14 of the North Reading Town Hall, 235 North Street, North Reading, MA.

### **MEMBERS**

#### **PRESENT:**

Christopher B. Hayden, Chairperson  
William Bellavance, Vice Chairperson  
Patricia Romeo, Clerk  
Joseph Veno  
Warren Pearce

### **STAFF**

#### **PRESENT:**

Danielle McKnight, Planning Administrator  
Debra Savarese, Administrative Assistant

Mr. Hayden informed all present that the meeting is being recorded.

### **Minutes**

Mrs. Romeo moved, seconded by Mr. Veno and voted 5-0:

that the Community Planning Commission vote to accept the minutes of August 4, 2015 as written.

### **Planning Administrator Update**

#### **Kinder Morgan Pipe Line**

Mrs. McKnight stated that she added a letter to the dropbox for the board's review. The letter was sent to Energy Facilities Siting Board by the Town Administrator Michael Gilleberto. The letter request that Kinder Morgan extend the comment period so that towns have more opportunity to review the plans. She attended a scoping session in Dracut to gather information regarding the pipe line and a meeting was held today to update the town. The pipe line was moved further north, so that it will now be going through the Benevento property, which is a concern for their operation.

#### **142-144 Main Street**

Mrs. McKnight stated that Jonathan Cody came in to speak to her about the landscaping at the site. Arborvitae is shown on the plan, but he thought Hemlock would look better and wanted to know if the board would have any issues with this change.

Mr. Hayden stated that the Hemlock has already been planted and it does look good.

Mrs. McKnight stated that she did tell Jonathan Cody that he is not allowed to have temporary banners and if he continued he would need to file for sign permit.

Mr. Hayden stated that he is concerned with the vehicles being parked on the left side of the building. There is an area on the right side that was designated for the vehicles. Once the garage opens he will need to move the vehicles.

### **Grants**

Mrs. McKnight stated that Steve Cecil suggested that the next meeting to discuss the grant projects be September 15<sup>th</sup> @ 10:00am and the proposed date to do a public workshop is September 29<sup>th</sup>, in the evening. The date for the DLTA project would be in the morning on October 13<sup>th</sup>. If these dates do not work for the board she will contact him and change the dates.

Carpenter Drive – discussion

Mr. Hayden stated that the owner of Carpenter Drive has a problem with selling the property. He does not have rights to the road that he built. The former DPW Director gave him legal standing to the road.

Mrs. McKnight stated that the former Town Administrator also gave authorization for the board to do a subdivision.

Mr. Pearce stated that he does not understand what the issue would be, other than any other normal subdivision.

Mrs. McKnight stated that the town owns the property and it is a parcel, not a road or right-of-way.

Mr. Hayden stated that the strip belongs to the town parcel in the rear. The Board of Selectmen and this board do not have the right to give an easement. The way that this is going to be fixed is that it will go to the October Town Meeting and he will be given an easement to his property. .

11 & 13 Magnolia Street

Mr. Hayden stated that these two parcels will also be on the warrant for the October 2015 town meeting. The reason for this is that #11 was part of the taking for Eisenhaure Pond Park, it was owned by the people that owned #13. The taking was done for the park in January and then another taking was done in March for tax title. #13 has since been sold, but it was just discovered that the septic system is on #11 and #13 is not perkable. A license was given last night to perk the property, and then they will go to the State to get #11 released from the Eisenhaure Pond Park taking. The lot lines will need to be redone and the town may possibly be able to get some of the property back.

100 Lowell Road – former J.T. Berry

Mrs. McKnight stated that she and the town engineer are working together to get a scope to survey the property, with permanent monuments.

Charles St. Ext.

Mrs. McKnight stated that she is working with Town Counsel to finalize and easement for Charles Street.

Mr. Hayden informed all present that the meeting was being recorded.

**20 Maple Road – cont. P.H. 8:00pm**

Attorney Brad Latham of Latham & Latham stated that he is representing Bill Smith. The property in question is in the RD District which requires 125' frontage and 20,000 sq. ft. The lot in question has 2½ acres and 210' of frontage. The lot was set off from the abutting property in 1918 and has existed for many years, as has Maple Road. There are currently nine dwellings on this part of Maple Road. The status of Maple Road is interesting. It is on the Chapter 90 list as being a public way/access. The Board of Selectmen recently granted an easement to RMLD for placement of telephone and light poles and this required the town to declare it as a public way, which they did do. The town maintains and plows the road, in fact, its gratuitous the town just recently improved the roadway itself, for its current condition. In addition, historically some of the homes been have altered and built, so they have been lawfully issued building permits based upon Maple Road as being sufficient as roadway and for access. Irrespective as whether Maple Road is a public or private road, the fact is really not relevant to what the applicant is doing. What they have is a grandfathered lot (Chapter 40A, Section 6) applies, so it is in fact a buildable lot. Therefore, they meet all of the criteria in the statute, for that, it exists as a separate lot prior to the adoption of the zoning provisions that rendered it non-conforming. It conformed to all of the applicable zoning requirements at the time of the change. The lot was not held in common ownership with abutting property and the property had at least 5000 sq. ft. and 50' of frontage, so hence it qualifies as a Chapter 40A, Section 6, buildable lot. They do understand that subdivision control law needs to be considered. Section 8, 81ff states "So far as land which has not been registered in land court is affected by the subdivision control law, recording of a plan with subdivision, the Registry of Deeds before the subdivision control law was in effect in the city or town which the subdivision was located shall not exempt the land within such subdivision from operation of said law. Except with respect to lots which had been sold and were held in ownership separate from that of the remainder of the subdivision when said law went into effect in said city or town and to rights of way and other easements pertinent to such laws." This is important because what it really says is that the pure application of the subdivision control law is not applicable to a grandfathered lot on an existing way. This is an existing way, not a paper street.

An application was submitted to the planning department, although it is not applicable, but would allow the applicant to come in front of this board to have a conversation to look for a solution to this situation. They believe that there are important factor that the board should consider in that factor. There are adequate utilities on this road and they believe that the road is safe and adequate, passably. Therefore, improvement should not be required. To the extent that this board determines its rules and regulations are applicable, they are also asking for a waiver or variance to those.

Also, he was given a copy of memorandum dated June 10, 2015, from Town Counsel to the Town Planner stating, "The Community Planning will not be able to required dimensional

changes to the street that would impact the lot boundaries as those boundaries will have already been determined under a pre-existing "grandfathered" plan. The Community Planning must not defeat the rights of way and the buildable nature of the grandfathered lots. So, their request at the time of the application was to have the board find that the way is sufficiently passable, it has been there long enough, it is maintained properly and therefore upgrades are not required.

However, since then they have had further conversations with Town Counsel and would like to make a proposal to this board in an effort to find a solution. The proposal is that they take the developed area and the applicant (Bill Smith) would take whatever subsurface conditions have to take place (holes) and level them out. He would then put down 3" of asphalt road pack from Juniper to the lot, which is 550'.

Mr. Hayden asked if the right-of-way, in front of the property, is that road, the travelled surface, in the right-of-way or on the property across the street.

Bill Smith stated that the right-of-way is inside the graveled way. On September 19, 1944 the Town of North Reading accepted the State Zoning Act (Chapter 40A), and when they accepted it, they also accepted with the authority the uses of the law that were provided, which means that the town has to work under that section that states "That the town shall not apply any zoning regulations formulated prior to the Acts of 1944." The North Reading Zoning Bylaw, §200-8 states "neither this Zoning Bylaw nor any amendment thereto shall apply to uses lawfully in existence, prior to the zoning act" He would also like to ask the Building Inspector a question.

Mr. Hayden approved.

Bill Smith stated that when they filed, they filed under Chapter 40, section 6 and the North Reading Zoning Bylaw §200-8. for a grandfathered use and under both those sections those are the two sections that apply to grandfathered uses, and did they qualify under those two sections.

Jim DeCola stated yes, it is a grandfathered lot.

Mr. Hayden stated that the board has discussed this and what is being offered is fairly in line of what the board was thinking of. He would like to know what part of the lot is the driveway going to be on.

Bill Smith stated that it is going to be on the right.

Mr. Hayden asked if it was possible to beef up the driveway, so that the fire truck can turn around.

Bill Smith stated that they will do that and they are going to have two turn-arounds on both sides of the road.

Mr. Hayden stated that a meeting should be held with the planner, applicant and DPW director.

Mrs. McKnight stated that in order to issue an approval decision, they will need a plan showing the proposed construction.

Bill Smith stated that he would have one prepared and would deliver it to the planning department.

Mr. Pearce stated that a crown should be done for country drainage.

Lew Ferrazzani of 16 Maple Road stated that he built on Maple Road in 2002 and at the time Maple Road was a 12' road. The board required him to make the road 18' wide, and he did. But he had to purchase land from the first and second lots coming in. Is Bill Smith going to have to make the road 18' all the way?

Mr. Pearce stated that Bill Smith said that there is 20' in front of his property.

Lew Ferrazzani stated that when he went through the process, the building inspector, fire department and planning board went to look at the road and it was determined that the road was 12' wide. He had to purchase 9' of land from his neighbor and give up 9' of his land to make the road 18'w. He would like to know how the road went from 12' to 18'. Through the years the town has been grading the road, bringing in more top to patch holes and in doing this the road has been widened.

Mr. Pearce stated that Bill Smith owns both sides of the road so he has the latitude to widen the road.

Lew Ferrazzani asked about the properties at 18 and 21 Maple Road.

Mr. Pearce stated that when they looked at the plan it shows varying widths all the way down Maple Road. Bill Smith has offered and the board is grateful that he is going to try to get 18' of width down to his property.

Lew Ferrazzani stated that he had to make his driveway an easement for the fire department, had to hire an engineer and lawyer to do all of this.

Mr. Pearce stated that Bill Smith is going to be doing the same thing.

Lew Ferrazzani asked if he was going to have to purchase property from #18 and 21.

Mr. Pearce stated that he already owns the property.

Attorney Brad Latham stated that he understands Mr. Ferrazzani may be upset with the process that the town put him through. But they are being consistent with Town Counsel's opinion. "You cannot require that the roadway be widened from that which exists." Bill Smith is going to put pavement where the town has already put the road.



Jane Krieger of 22 Cherry Street stated that there should be a file and plans on all of this because it has been going on for years. Part of Maple Road was taken in the Eminent Domain taking, so it is a public way. The whole idea was to have a plan and it is not for one person to take the full burden. It is part of Eisenhaure Pond Park and a plan should be developed.

Mr. Hayden stated that they are working on #20, not Eisenhaure Pond Park, which is farther north.

Jane Krieger asked if Town Counsel has that information.

Mr. Hayden stated that he does not know if they have it. The property past 20 Maple Road is not germane to this discussion.

Jane Krieger stated that she used to own 15 Maple Road and at that time they were going to pave the road, but the board denied it. They also do not have water and they should get water and the road should be done properly.

Lew Ferrazzani stated that he would like an answer as to why Bill Smith does not have to do what he did.

Mr. Hayden stated that they are dealing with a different section of the road.

Lew Ferrazzani stated that to get to 21, you have to pass 18 and 15. He does not understand how Bill Smith can pave an 18' road. It has been widened over the years by the grading trucks, but that does not mean that the town owns that portion. It is owned by private citizens. He also said that because of the fill that has been brought in, it built the road up 5" higher, and now he gets water.

Mr. Hayden stated that before Bill Smith puts the asphalt down they will speak to the town engineer.

Mrs. McKnight stated that she spoke to the town engineer and he was going to see what was available from the DPW as far as solution.

Lew Ferrazzani stated that the town engineer spoke to the DPW director and they were going to wait to see what the outcome of this meeting was.

Jane Krieger stated that there are plans and its gone for years. Where could a member of the public view the legal opinion?

Mr. Hayden stated that there is a file for Maple Road in the planning office that can be viewed.

Chris Albano of 21 Maple Road asked who determines how wide the road is. Is there a plan?

Mr. Hayden stated that there is a plan.

Chris Albano stated that he is okay with having the road paved, but it should also be widened to 18', for safety reasons. Where it narrows down, they have to back up several feet if another vehicle is coming in the opposite direction.

Mr. Hayden stated that he cannot make Bill Smith make any other part of the road wider. This was decided by the courts.

Jane Krieger asked if that is Town Counsel's opinion, and if so can he respond to it for the record.

Attorney Jonathan Eichman of Kopelman & Paige PC stated that they are here strictly for the confines of the subdivision control law. Under the subdivision control law and the cases interpreting that law as explained earlier by Attorney Latham. A lot that has come into separate ownership from the original subdivision plan; they can apply the regulations of the subdivision control law with respect to the construction of ways and the installation of municipal services. But we cannot require that the boundaries or the streets be changed with respect to that lot.

Jane Krieger asked if they gave that same opinion to Lew Ferrazzanni or 15 Maple Road, that she owned and others.

Mr. Hayden does not know if her property fits the parameters.

The public hearing was continued to September 15, 2015 @ 8:00pm.

**2 Mid Iron Drive – Thomson County Club – P.H. 8:30pm**

Mrs. Romeo read the public hearing notice into the record.

Mr. Pearce recused himself from the public hearing.

Mr. Hayden informed all present that the meeting was being recorded.

James Kavanaugh, P.E. stated that the Thomson Country Club would like to add a second floor addition to the existing pro-shop. There will be a function room with a snack bar and will seat 85 people. A dormer will be added to the front of building, with minimal impact. The new construction at the rear will be an 8' extension of the current roof. A deck will also be added to the rear of the building on the 2<sup>nd</sup> floor. The only mechanicals on the roof will be for the kitchen exhaust. The air conditioning units will be located on the ground next to the existing ones.

Mr. Hayden asked where they would be located and would they be shielded.



James Kavanaugh stated that they would be on the right side of the building. A wooden barrier fence currently shields them. The existing first floor area currently holds a pro-shop, 2 bathrooms that were modified last year and a small conference room. With the addition they would be building a conference room and dining area for the members.

Joe McCarthy, president of the Thomson County Club stated that they sold the property on the other side of the street and would like to do this addition to accommodate the members.

Mr. Hayden asked if there was enough parking.

Joe McCarthy stated that they have plenty of parking.

Mr. Hayden asked if a new septic system would be required.

James Kavanaugh stated that the design has been completed and submitted to the Board of Health.

Joe McCarthy stated that they would like to get the permits so that they will be able to start construction in mid-October and have it ready to open in 2016.

Mr. Hayden asked if the seating for 85 included the deck area and how much seating is inside.

James Kavanaugh stated that it does include the deck area. There will be seating for 34 in the dining room and 24 in the conference room.

Mr. Hayden asked if it would be open 12 months.

Joe McCarthy stated that the intent is to open during the golfing season. If the condo association wants them to keep it open they may consider it.

Mr. Hayden asked if the new addition would be sprinkled.

Joe McCarthy stated that the building is not large enough to warrant a sprinkler system.

Jeff Horne of Horne Construction stated that he spoke to Captain Nash and he was only going to require that the kitchen have a certain type of dry-chem.

Mr. Veno read the School Department's memo dated (8/12/15) into the record.

Mrs. Romeo read the Town Engineer's memo dated (8/13/15) into the record.

Mr. Romeo read the Board of Health Department's memo dated (8/10/15) into the record.

Mrs. Savarese read the Building Department's memo dated (8/10/15) and the Police Department's memo dated (8/11/15) into the record.

Mrs. Romeo stated that she received a call that told her that the club as an entity does not pay the taxes. It is the residents of the condo association that pay. Will the taxes for second floor also be paid by the condo association?

Joe McCarthy stated that they have had discussion with the condo association in regard to the taxes and have agreed that if there are any taxes incurred by this addition the club will pay.

Matthew Piaker, Treasurer for the Thomson Country Club stated that the condo association will pay the taxes, but will be reimbursed for the additional taxes by the club.

Mrs. McKnight read the Planning Department's memo dated (8/13/15) into the record.

Mary Thibodeau of 8 Spoon Way asked if there would be a requirement for handicap access to the second floor.

Joe McCarthy stated that they would be adding a lift to the interior of the building.

Rick Segel of 3 Sand Iron Way asked if the restaurant would be open to the condo owners.

Joe McCarthy stated yes and to members, but it is not open to the public.

Daniel Collins of 1 Hayward Farm Lane stated that he is a former member of the club and is not against the addition. He does have questions about the sights and sounds and the legality of it. He asked if this was located in the RD District.

Mrs. McKnight stated that it is located in the RE District which allows P.U.D.

Daniel Collins stated that he did some research and found that eating and drinking establishments are not permitted in Residence E, but that is not his main point. What will be the hours of operation?

Joe McCarthy stated that the deck will be open until 8:00pm and the restaurant will be open until 10:00pm on Friday and Saturdays.

Daniel Collins asked if more lighting was going to be put in.

Joe McCarthy stated that they will be adding more lighting in the parking lot, but not on the side that Mr. Collins abuts.

Mr. Hayden asked if he was getting overspill from the lights. Shielding should be placed on the lights to prevent this from happening.

Daniel Collins stated that he has a large deck that overlooks this new addition and he would prefer not to have the smell of food wafting over to his yard and does not want people out on the deck all the time. He is also concerned that people will park on his road because there is not much of an overflow for parking.

Mr. Hayden stated that the location of the dumpster needs to be placed on the plan; more screening should be added around the condenser units and how many parking spaces.

Mr. Bellavance asked what type of exhaust will be used. There are some good exhaust systems that will pull the smell away.

Joe McCarthy stated that it is going to be a basic restaurant will only be serving hamburgers and sandwiches

The public hearing was continued to September 15, 2015 @ 8:30pm.

### **3 Wren Circle - discussion**

Michael O'Neill of O'Neill Associates presented the plan. 3 Wren Circle was a pre-subdivision, with frontage on Wren Circle. The property owners would like to subdivide the parcel and have access from Francis Street. He would like to go over the variances that they would be requesting and get feedback from the board so that he will be able to develop engineering plans.

- 1) The width of right-of-way - The existing land has approximately 70' of frontage at Francis Street, but then drops down to 49.7', being 3' short of 50' and continues to narrow. What he would propose to do is where the three-tenths of the variance would run only for only about 3' back and then become 50'. They will make a little jog to make it run the rest of the way to 50'.
- 2) Cul-de-sac – Instead of putting a full cul-de-sac at the end. The 125' would practically take out most of the parcel. He would like to put in a hammer-head to accommodate the fire apparatus.
- 3) The width of pavement – Is the biggest concern because it is only going to be providing service to one home. The lot next to it is already non-conforming and the town owned land will probably never be built on. He would like to cut the width down to 20' without berm and design it for country drainage, the actual terrain lends itself to that because the slope goes down to the back of the lot. Swales can be put on either side for infiltration trenches for run-off and recharge the groundwater. This may not take care of all of the run-off, but they may also have to construct a stormwater basin.
- 4) Curbing – He believes that the country drainage will work because the road is only 350' in length. There is an existing hydrant on Francis Street and it is not his intent to put in another hydrant.

Mr. Hayden stated that the fire department may ask that the house be constructed with a sprinkler system.

- 5) 4 Wren Circle has a water service that comes from Francis Street, so the intent would be to tie in an individual water service.

Mr. Hayden stated that the original access was off of Wren Circle. What will happen to the access?

Michael O'Neill stated that it will be attached to the other parcel.

Mr. Hayden stated that he would like to keep the road private and the road should be 20' in width with 2' of low gravel shoulders on either side.

Adjournment at 9:55PM

Respectfully submitted,

  
Patricia Romeo, Clerk